

TAB 15

APPENDIX A – NH 271 EXHIBITS

Deliberations Statement of Commissioner Brockway and Geiger

PUBLIC VERSION

DELIBERATIONS STATEMENT OF COMMISSIONER BROCKWAY
Verizon's 271 Petition, Tuesday June 11, 2002

This proceeding presents us with the type of situation that I hope we don't have to confront again any time soon - a mandate to act without the complete authority to achieve the results necessary. We are asked by the Federal Communications Commission to give our opinion on whether Verizon should be allowed to enter the long distance market, and Verizon will not pursue an application for permission without our blessing. We gave our opinion in our letters of March 1 and April 10, 2002, specifying that Verizon must lower the rates it charges local competitors, provide greater opportunities for broadband providers to access its system and serve customers, and accept our determination about what penalty scheme is necessary to prevent backsliding in Verizon's treatment of its competitors. Local telephone competition has been the source of innovation and the driver of expanded broadband access in New Hampshire, and the Commission is committed to full opportunity for local exchange competition.

But we lack the authority to require today, over Verizon's persistent objections, the full range of changes to Verizon's treatment of local exchange competitors that we originally identified as necessary in order to protect local competition upon Verizon's entry into the long distance market. Verizon refused to make certain of the improvements we saw as important to safeguard local competition once Verizon was freed to enter the long distance markets. It has refused to lower its wholesale access rates for competitors and internet providers to those in nearby states. It has appealed to the public and to the legislature, with an incessant campaign for us to grant it long distance entry, meanwhile making only modest concessions to our authority and our policy determinations.

We are left with a dilemma. We can hold to our original decision, and effectively deny Verizon the long distance authority it seeks. This might give the appearance of a courageous

stand against an overweening monopoly. But doing so will not cause the improvements that are necessary in Verizon's treatment of its local competitors and their customers. Verizon has made it clear on numerous occasions that it will not make these improvements unless ordered to do so, and that it will take advantage of its full due process rights before this Commission to contest the proposals and avert such an order. In effect, the "carrot" of long distance entry, which was held out by the Telecommunications Act of 1996 as the prize that would incent the incumbent Bell Telephone Companies to open up their local systems to competition, is not sweet enough in New Hampshire to sway this giant corporation.

On the other hand, we can adjust modestly the conditions we place on a favorable recommendation for Verizon's entry into the long distance markets, we can accept Verizon's agreement to institute certain core conditions and test new high-capacity services to enhance broadband access in New Hampshire, and we can proceed with what remaining state jurisdiction we do have to pursue the necessary improvements in Verizon's treatment of its local competitors and prices for broadband access. This is the course the Commission chooses today.

We have received numerous requests from members of the public that Verizon be free to enter the long distance market, so they can take their long distance service from their preferred local carrier. There is little to be gained from continuing to deny Verizon the opportunity to enter the long distance market, but much merit in cementing the improvements this process has brought, and beginning new proceedings to pursue the additional improvements to which Verizon will not voluntarily agree.

Mr. Chairman, I second your motion, and join in the Commission's expression of gratitude towards its staff, who have worked so long and diligently to bring about a result that is in the public interest.

**DELIBERATIONS STATEMENT OF COMMISSIONER GEIGER
-VERIZON'S 271 PETITION**

I concur with the deliberative remarks of the Chairman and Commissioner Brockway. However, while I concur with the result in this docket, I continue to have concerns about Verizon's loop rates for two reasons. First, those rates were established using data in a docket that commenced in 1997 and which took several years to complete. Thus, the staleness of the data causes us to open another docket to examine the UNE rates using more current inputs into the TELRIC methodology. The second reason I am concerned about the loop rates is that in many instances they are higher than the loop rates in our neighboring states, even though the weighted average of NH's loop rates apparently pass the FCC's benchmarking analysis which is used to evaluate whether the rates comply with TELRIC pricing principles. Although the CLECs provided persuasive evidence that existing UNE rates in New Hampshire are impeding competition, I am unable to conclude that the current rates "doom competition to failure", the standard employed by the FCC in determining whether Verizon has satisfied the "public interest" component of section 271 of the Telecommunications Act of 1996.

I am confident that the concerns I have about the loop rate level will soon be addressed in the docket we are opening to examine them. Accordingly, I concur with the results of the instant proceeding.